

STATE OF MICHIGAN  
COURT OF APPEALS

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JOHN HAGENS, Personal Representative of the  
ESTATE OF JOHN HAGENS, SR.,

UNPUBLISHED  
April 2, 2009

Plaintiff-Appellant,

v

GREENHOUSE LTD DIVIDEND HOUSING  
ASSOCIATION and AMURCON,

No. 284010  
Wayne Circuit Court  
LC No. 07-711555-NO

Defendants-Appellees.

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Before: Wilder, P.J., and Meter and Servitto, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the circuit court's order granting defendants' motion for summary disposition under MCR 2.116(C)(10). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's decedent died of a heart attack that occurred while, in response to a fire alarm, he was descending the stairs in defendants' apartment building. According to plaintiff, the fire alarm had gone off in a known drug trafficker's apartment and, because drug traffickers are known to frequently and carelessly use fire in their nefarious activities, it was foreseeable that plaintiff would be injured. Plaintiff asserted that because the injury was foreseeable and defendants failed to evict the known drug trafficker, defendants are liable for the injury.

This Court reviews de novo a trial court's decision to grant or deny a motion for summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). The party opposing a motion for summary disposition brought under MCR 2.116(C)(10) must show by evidentiary materials that a genuine issue of disputed fact exists, MCR 2.116(G)(4). The mere possibility that the claim might be supported by evidence at trial is insufficient. *Maiden v Rozwood*, 461 Mich 109, 121; 597 NW2d 817 (1999).

Here, plaintiff's claim is premised on defendants' failure to evict the tenant in unit 906 because she was a drug trafficker. However, there is nothing in the record beyond plaintiff's own speculation that the fire had any relationship to the tenant's alleged criminality; the evidence submitted by the parties indicate that the cause of the fire was undetermined. There has also been no evidence presented that defendants breached any duty in failing to evict that tenant

before the fire occurred. Plaintiff has directed us to no legal duty on the part of defendants to remove a tenant on the chance that one might cause harm to another.

Moreover, the only link between the injury and the fire is that a fire alarm was sounding while decedent exited the building. There is no indication that the fire itself contributed to the injury. Whether it is foreseeable that a tenant would have a heart attack while exiting the building is highly questionable, particularly when, as here, the evidence suggests that decedent's family was unaware he had a heart condition. Based upon the record, the circuit court did not err in granting defendants' motion.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Patrick M. Meter  
/s/ Deborah A. Servitto